

United States District Court  
District of Massachusetts

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United States

v.

Joseph Benton,  
Defendant.

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Case No. 09-10247-PBS

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**Defendant Joseph Benton's Sentencing Memorandum**

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**I. History and Characteristics**

Joseph Benton was born on August 11, 1970, and on the date of sentencing will have just turned 40. (See PSR ¶ 75.) Mr. Benton is the only child of William Wigfal and Eva Green. (PSR ¶ 76.) He was raised by his mother who also has six other children. (Id.) Mr. Benton is close to his mother. (PSR ¶ 78.) She knows about this case, remains supportive of him, and Mr. Benton will live with her when he is released. (PSR ¶ 78; 92.) Mr. Benton's mother has continued to spend time with Mr. Benton's daughter about twice a month when one of Mr. Benton's sisters picks her up in New Hampshire and brings her to family gatherings at the home of Mr. Benton's mother. (See letter from Rebecca Swirka, hereinafter Swirka Letter, attached as Exhibit A.) Although they never had much money, Mr. Benton always felt well taken care of by his mother. (PSR ¶ 77.) His father, William Wigfal, was an alcoholic and was "in and out" of his life. (Id.) Mr. Wigfal, who had four other children, died in 2000. (PSR ¶ 76 and 79.)

Mr. Benton has been in a relationship for twelve years with Rebecca Swirka. (Swirka Letter.) They have one child together and Mr. Benton is also

helping to raise a son Ms. Swirka had with a different man. (Id.) Mr. Benton has a very strong bond with his seven-year-old daughter, who is in the custody of Ms. Swirka's father and his wife. (Id.) Ms. Swirka writes that Mr. Benton and their daughter enjoy spending time together playing and coloring. (Id.) Their daughter asks when Mr. Benton is coming home and has made drawings and cards for him. (Id.) Ms. Swirka also writes that she and Mr. Benton have been through a lot together. (Id.) She thinks he needs therapy and possibly a doctor who can prescribe medication because she feels that he has been self-medicating rather than dealing with depression. (Id.) Ms. Swirka writes that Mr. Benton was very depressed when their daughter was taken away and she thinks he never had a chance to deal with that or any of his other issues, like a feeling of abandonment by his father. (Id.) He went into the hospital after their daughter was taken away and that really helped stabilize him, but there was no post-hospitalization treatment which Ms. Swirka still thinks Mr. Benton needs. (Id.) Ms. Swirka also thinks they could benefit from going to therapy together. (Id.) She wants him to come back home. (Id.)

Mr. Benton has worked as a welder in the past and can be re-hired by Labor Ready where he worked at various times between 2005 and 2009. (See PSR ¶¶ 114-116; 119.)

## **II. Offense and Plea Agreement**

On July 21, 2010, Mr. Benton pleaded guilty in this Court to a superceding information charging Use of a Communication Facility in Furtherance of the Distribution of Heroin. Mr. Benton made a cell phone call in the process of selling two packages of heroin for \$100 to an undercover officer on July 10, 2009. (PSR ¶¶ 12-13.) Mr. Benton has been held since July

14, 2009, first in state custody and then since September 8, 2009, in federal custody. (PSR ¶¶ A-B.)

Mr. Benton entered into a plea agreement in which the United States and he agreed to a 24 month sentence. Mr. Benton requests that he be sentenced to 24 months, with the remainder of his sentence to be served in a halfway house. By sentencing Mr. Benton to a halfway house, the Court will permit him to directly address the drug issues that have plagued him, help him reestablish himself by allowing him to re-engage in the working world, either through Labor Ready or by working as a welder, and help ensure a smoother transition to his full release from incarceration.

### III. Conclusion

For all of the above reasons, Joseph Benton requests that the Court impose a sentence of 24 months with the remainder of his sentence to be served a halfway house, or alternatively fashion a sentence which would take into account his time served and permit him to serve the balance of the agreed term of detention in a halfway house.

Respectfully submitted,  
Joseph Benton  
By his attorneys,

/s/ John Salsberg  
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Dated: August 9, 2010

**Certificate of Service**

I hereby certify that I have served this motion on the government and all counsel of record by e-filing.

/s/John Salsberg